IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17012 of 2006
Date of decision:30.10.2006

M/s. Motorola India Pvt. Limited, Gurgaon

....Petitioner

versus

The State of Haryana and others

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. KL Goyal, Advocate, for the petitioner.
Ms. Ritu Bahri, DAG, Haryana

JUDGMENT:

This writ petition seeks quashing of attachment order dated 12.10.2006, Annexure P.7 and assessment order dated 29.5.2006, Annexure P.1 and restraining the respondents from taking coercive steps for recovery.

Case of the petitioner is that the assessing authority assessed tax under the provisions of the Haryana General Sales Tax Act, 1973 (for short, 'the Act') vide order dated 29.5.2006, Annexure P.1. On appeal of the assessee, the appellate authority dismissed the application for interim stay vide order dated 26.7.2006, Annexure P.3. Further appeal of the assessee on the stay matter was pending before the Haryana Tax Tribunal and the matter was fixed for hearing on 29.11.2006. In the meanwhile, vide notice dated 12.10.2006, Annexure P.7, the Assistant Collector Ist Grade-cum-Excise and Taxation Officer attached the bank account of the petitioner.

Learned counsel for the petitioner submitted that if recovery was effected by the coercive measures, remedy of the petitioner will be rendered meaningless and till stay matter is decided by the Tribunal, recovery ought not to be made. Reliance has been placed on judgments of this Court in **Indian Oil Corporation Limited v. Excise and Taxation Officer-cum-Assessing Authority, Jalandhar-I and others,** (1995) 96 STC 90, **SK Bansal v. State of Punjab and others,** (1999) 116 STC 130

and **D.R.Foods Limited v. State of Haryana and another,** (1999) 112 STC 151, in support of this submission.

We have heard learned counsel for the parties.

In view of law laid down by this Court referred to above, we find merit in the contention raised.

Accordingly, we allow this petition and direct that no further steps be taken in pursuance of order of attachment for a period upto 15.12.2006 or till stay matter is decided by the Tribunal, whichever is later. The petitioner will also not make withdrawal from its bank account to the extent of disputed amount during this period. The Tribunal will decide the stay matter by 15.12.2006.

(Adarsh Kumar Goel)
Judge

Oct.30, 2006 (Rajesh Bindal)
'gs' Judge